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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/719,476
Filing Date: November 21, 2003
Appellant(s): BISHOP ET AL.

David A. Fox
CANTOR COLBURN LLP
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/05/2008 appealing from the Office action mailed 05/30/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|-----------|-----------------|---------|
| 6,215,857 | KASIVISWANATHAN | 04-2001 |
| 6,600,817 | SHAFFER ET AL. | 07-2003 |
| 5,181,238 | MEDAMANA ET AL. | 01-1993 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 – 5 and 7 – 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,215,857 (Kasiviswanathan) in view of US 6,600,817 (Shaffer et al.) hereinafter “Shaffer.”

As to claims 1 and 25, Kasiviswanathan teaches a method for providing a no-ring telephone call service, the method comprising:

- receiving notification that a telephone call from a calling party device (200 in fig. 2) requesting to use the no-ring telephone call service has arrived at a switch (210 in fig. 2, 305 in fig. 3, 410 and 420 in fig. 4), the notification including a called party (220 in fig. 2) telephone number (300 in fig. 3, col. 4 lines 7 - 22);
- determining if the called party telephone number corresponds to a voice mail service subscriber (240 and 250 in fig. 2), read as the claimed voice mail platform number in a region wide messaging database (305 and 325 in fig. 3, col. 4 lines 23 - 46). Note that a voice mail service subscriber would have a corresponding voice mail platform number in a region wide messaging database.
- when the called party telephone number corresponds to a voice mail service subscriber, read as the claimed voice mail platform telephone number, instructions to route the telephone call directly to the voice mail system (240 in

fig. 2) are communicated to the switch (330 – 355 in fig. 3, col. 4 lines 47 – 60, col. 5 lines 50 - 58)

- when the called party telephone number does not correspond to a voice mail service subscriber and the calling party is utilizing the no-ring telephone call service, instructions to play a pre-recorded message are communicated to the switch (335 and 340 in fig. 3, col. 4 lines 61 – 65, col. 5 lines 59 - 67).

Kasiviswanathan does not disclose expressly the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.

However, Shaffer teaches a pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call (44 - 48 in fig. 2, Abstract, col. 5 lines 49 – 55 of Shaffer).

Kasiviswanathan and Shaffer are analogous art because they are from the same field of endeavor namely, telephony call completions. At the time of the invention it would have been obvious to a person of ordinary skill in the art to provide an option to abandon or alternatively complete the call to the called party in the system of Kasiviswanathan in view of the teachings of Shaffer. The motivation for doing so would

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have been to provide the user with another option, since no voicemail is available. The other option could be to abandon the call or alternatively connect with the called party number. A user may have preferred to leave a message. However, since the option of leaving a message is not available, the user may want to go ahead and ring the called party number. For example, a calling party may be entering an area where there is no telephone access (i.e. secured area, vacation, airplane, poor service are, etc.). The calling party may have important information (i.e. fight information, directions, status, etc.) to that needs to be communicated to the called party. The calling party may prefer not to ring the called party (i.e. leave a voice message). However, if the calling party cannot access the called party's voicemail, it would be beneficial and necessary to have the option to complete the call to the called party. In this example, the calling party would prefer to ring the called party to communicate the information instead of abandoning the call and not being able to deliver the message

It is noted that Kasiviswanathan teaches that a message is played to the calling party indicating that the call will be torn down when no voicemail option is available. However, Kasiviswanathan in no way precludes or indicates that other options are not available. Kasiviswanathan states that the "innovative concepts described in the present application can be modified and varied over a wide range of applications" and that "the scope of patented subject matter should not be limited to any of the specific exemplary teachings discussed" (col. 8 lines 31 – 36 of Kasiviswanathan). Therefore, it would have been obvious to combine Shaffer with Kasiviswanathan for the benefit of a more user friendly system to obtain the invention as specified in the claims.

As to claim 2, Kasiviswanathan teaches that if the called party is a voice mail service subscriber, the system “routes the call directly to the called subscribers voice mail box (250 in fig. 2) for this particular call” (col. 4 lines 53 – 55). This instructs the switch to direct calls directly to the voice mail system (240) without ringing. It would be obvious to one of ordinary skill in the art that these instructions would include voicemail platform telephone number and the called party telephone number. The called party telephone number would be used to identify the called party and corresponding service account (300 in fig. 3). The account is checked to determine if the called party is a voice mail service subscriber. If the called party is a voice mail subscriber, a voicemail platform telephone number is used for directing calls to the subscribers voice mail box (250). This voicemail platform telephone number would be used by the switch to direct the particular call to the subscribers voice mail box (250) without ringing.

As to claim 3, Kasiviswanathan teaches a separate voice mail system (240) that includes individual boxes (250) for each service subscriber. This voice mail system reads on the claimed database since it is a collection of data structured and organized for easy access. In addition a voice mail system is defined as a device to record, store and retrieve voice messages. When subscriber A calls Subscriber B, subscriber A dials subscriber B’s telephone number. When the call is to be directed to voicemail, the switch detects the corresponding voice mailbox and directs the call (transparent to the calling party) to the number associated with the voice mailbox. This number associated with the voicemail box is the claimed voicemail platform telephone number. The voicemail system or database would obviously include both the voicemail platform

telephone number and the called party telephone number attributes. Both are essential to maintaining a database for a subscriber. Obviously, the database would include the subscriber's telephone number, account information, and voicemail platform telephone number that the switch uses to direct the call.

As to claims 4, 5, 8, 9, Kasiviswanathan teaches that the notifications from a calling party are received at a switch, e.g. local service provider, service switching point, or end office (210 in fig. 2, col. 4 lines 25 – 27). Kasiviswanathan further teaches that one of ordinary skill in the art can modify or vary the inventive concept without departing from the scope of the invention (col. 8 lines 31 – 36). It would be obvious to one of ordinary skill in the art that any type of device that is capable and used in the art for handling incoming notifications could integrate the concept of Kasiviswanathan. These devices would include the claimed SCP, application server, service provider central office service switching point and softswitch. Moreover, it is well known in the art to move functionality between different components in an AIN system. This is often done to reduce unnecessary traffic or to have a single access point for software upgrades or part replacement. For example, certain functionalities in an SSP and SCP are often interchanged depending on requirements for the particular system. Alternatively, if the inventive concept of Kasiviswanathan were integrated into a VOIP environment, a softswitch would receive the notifications.

As to claim 7, Kasiviswanathan teaches that the request is initiated by a calling party entering a no-ring telephone call service coded into the calling party device (300 in fig. 3, col. 4 lines 7 – 18).

As to claims 10 and 22, Kasiviswanathan has been discussed above.

Kasiviswanathan teaches an SCP (120 in fig.1) and a switch (210 in fig. 2) as basic components of Advanced Intelligent networks. Kasiviswanathan does not disclose expressly that the switch queries the SCP to determine whether a called party telephone number corresponds to a voice mail platform number in the region wide messaging database. However, Kasiviswanathan teaches that a query is made to determine if the called party is a subscriber to the voice mail service. It would be obvious to one of ordinary skill in the art at the time of invention that in order to make this determination the switch of Kasiviswanathan would query a device such as an SCP in landline environments or an MSC in mobile environments to determine if the called party is a subscriber to the voice mail service. This is because an SCP is a remote database within a SS7 network and would be queried to make such a determination. Alternatively, a server could be queried in a VOIP environment to make the determination.

As to claims 11, 13, 15, 17 - 21 see the rationale for the rejection of claim 4.

The same rationale applies to claims 11 and 13. The type of switch would depend on the type of telephony environment that the system is implemented. Moreover, the type of switch does not make the applicant's invention patentably different than the reference of Kasiviswanathan. Both the applicant and Kasiviswanathan teach implementing a no-ring and direct to voice mail system to be applied in telephony environments. The type of switch will obviously differ based on telephony environment (PSTN, VOIP, mobile,

etc.). However, the novel aspects of the invention (taught by Kasiviswanathan) will be the same, i.e., directing a call to voicemail without disturbing a called party.

As to claim 12, 14, 16 see col. 4 line 26 and figures 1 and 2.

As to claim 23, see col. 4 lines 61 – 65 and 335 in fig. 3

As to claim 24, obviously if the call was made in a VOIP environment the call would be routed via a packet switched network. If the call is made using the PSTN, the call would be routed via a circuit switched network. The invention of Kasiviswanathan could be applied to either environment without departing from the scope of the invention.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,215,847 (Kasiviswanathan) in view of US 6,600,817 (Shaffer et al.) further in view of US 5,181,238 (Medamana et al.) hereinafter "Medamana".

As to claim 6, Kasiviswanathan and Shaffer have been discussed above. Kasiviswanathan does not disclose expressly that the system verifies that the calling party is authorized to use the no-ring telephone call service. However, the process of verifying that that a calling party is authorized to use a telephone service is old and well known in the art. Common services such as *69, *67 and 411 are used only if the user is authorized to use the feature. Parents often disable such features on phones to prevent high phone bills. This is the case with features such as 3-way calling and call forwarding. These features must be enabled by the subscriber, since a cost may be charged per use of the feature. Therefore, when a calling party enters a service code,

the system checks if the feature is enabled and the calling party is authorized to use such a feature. Further examples require to calling party to enter a passcode or pin in order to place a call. This pin or passcode is verified before the call service is processed. Consequently, only authorized individuals are permitted to use a select service. Medamana provides further evidence that the process of verifying a calling party is authorized to use a service is old and well known in the art. Medamana teaches verifying that the calling party device is authorized to use a service (324 and 326 in fig. 5, col. 2 line 65 – col. 3 line 5 of Medamana). Medamana further teaches that if the verifying results in a determination that the calling party device is not authorized to use the service then sending instructions to the switch to play a pre-recorded not authorized message to the calling party device (328 in fig. 5 of Medamana).

Kasiviswanathan, Shaffer and Medamana are analogous art because they are form the same field of endeavor, namely telephony systems. At the time of the invention it would have been obvious to a person of ordinary skill in the art to verify the calling party is authorized to use the no-ring service in the system of Kasiviswanathan in view of the teachings of Medamana. The motivation for doing so would have been to only permit certain individuals to be transferred directly to voicemail. Other non-authorized users would have to place a regular call in the known fashion. Kasiviswanathan obviously contemplated the idea of not permitting everyone access directly to voicemail. Kasiviswanathan implemented a “Direct Voice Mail Access Blocking (DVMAB)” feature (col. 3 lines 19 – 26 of Kasiviswanathan). The purpose of the DVMAB feature was to inhibit direct access to voicemail by calling subscribers. Therefore, DVMAB is used to

limit calling parties from directly accessing voicemail. This same result is achieved by using verification/authorization procedures for the calling party. Since verification/authorization procedures were well known in the art at the time of invention, it would have been obvious to one of ordinary skill in the art to use these procedures to produce the same result as Kasiviswanathan intended with DVMAB.

(10) Response to Argument

Appellant's only argument is that since "Kasiviswanathan teaches against ringing the called party" and that Shaffer et al. teach ringing the called party, then it would not be obvious to combine the two references because Shaffer et al. teach away from Kasiviswanathan (see page six of the Appeal Brief). Appellant goes on to argue that "Kasiviswanathan clearly teaches against ringing the called party" (page 6, last 2 lines). However, this broad assessment is not true. In Kasiviswanathan, one may enable a calling subscriber to invoke the forwarding of a call to a voice mail system for the called subscriber on a call-by-call basis in order to leave a message for the called subscriber without disturbing (ringing) the called subscriber (Abstract). Note the enabling of the forwarding feature is on a call-by-call basis. That is, the caller need not invoke the call forwarding feature and therefore, may call the called party direct and the called party phone will ring. There is nothing in Kasiviswanathan which precludes the calling party from using the option of ringing the called party's phone. If a user of the Kasiviswanathan device was calling late at night and the call was not an emergency, the caller may opt to enable the forwarding aspect of Kasiviswanathan to forward the call to

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a voice mail system to leave a message for the called party without disturbing (ringing) the phone. If, on the other hand, the call was an emergency the caller would not invoke the forwarding aspect of the invention (by entering a code) (see Fig. 3, step 300) and just dial the called party's number and let the call ring the called party's phone. The difference between the references is when the option to ring the called phone or use the call forwarding aspects is available to the calling party. In Kasiviswanathan it is at the time of dialing and in Shaffer it is after dialing.

It is shown that Appellant's broad statement that Kasiviswanathan precludes one from ringing or disturbing the called party is incorrect. It would have been obvious to one of ordinary skill in the art to place the option to ring through to the called party after dialing the number as taught by Shaffer et al. into the Kasiviswanathan system as such would only entail the position or timing of an option.

In addition, as stated in the Final Office action and reproduced below:

As discussed in the Final Office action, Kasiviswanathan does not teach that the pre-recorded message gives the option to direct connect instead of being disconnected.

However, Shaffer teaches a system which:

offers the caller the option of abandoning the call before it is connected. If the caller takes the option of abandoning the call, then the call is disconnected. Alternatively, if the caller does not take the option of abandoning the call, the call is connected to the target communication terminal. (Abstract of Shaffer).

Thus, Shaffer reads on the claimed pre-recorded message which gives the option to direct connect instead of being disconnected. The motivation for

combining Kasiviswanathan and Shaffer would have been to provide the user with another option, since no voicemail is available. The other option could be to abandon the call or alternatively connect with the called party number. A user may have preferred to leave a message. However, since the option of leaving a message is not available, the user may want to go ahead and ring the called party number. For example, a calling party may be entering an area where there is no telephone access (i.e. secured area, vacation, airplane, poor service area, etc.). The calling party may have important information (i.e. fight information, directions, status, etc.) to that needs to be communicated to the called party. The calling party may prefer not to ring the called party (i.e. leave a voice message). However, if the calling party cannot access the called party's voicemail, it would be beneficial and necessary to have the option to complete the call to the called party. In this example, the calling party would prefer to ring the called party to communicate the information instead of abandoning the call and not being able to deliver the message.

From the above, it is clear that Shaffer et al. does not teach away from the teachings of Kasiviswanathan and therefore, the combination of the references is proper.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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